

MUR # 7287

**BEFORE THE
FEDERAL ELECTION COMMISSION**

American Democracy Legal Fund
455 Massachusetts Avenue NW
Washington, DC 20001

Complainant,

v.

The Honorable Russell C. Fagg
District Court Judge
13th Judicial District, Department 2
217 N. 27th Street, Room 508
P.O. Box 35027
Billings, MT 59107

Russ Fagg Senate Exploratory Committee
P.O. Box 176
Billings, MT 59103

Respondents.

**(CORRECTED)
COMPLAINT**

Complainant files this complaint under 52 U.S.C. § 30109(a)(1) against Russell C. Fagg and Russ Fagg Senate Exploratory Committee, for violating the Federal Election Campaign Act of 1971, as amended ("the Act"), and Federal Election Commission ("FEC") regulations, as described below. As Mr. Fagg has decided to become a candidate for the Republican nomination for the U.S. Senate seat in Montana and has engaged in extensive campaign activities, including disseminating communications to the public and describing himself as a candidate for office, he has exceeded the candidacy threshold and committed multiple violations of federal campaign finance law.

OFFICE OF GENERAL
COUNSEL

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COMMISSION

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A. FACTS

Russell C. Fagg currently serves as a state district court judge for Montana's 13th Judicial District.¹ On June 6, 2017, Fagg announced that he would resign from the bench on October 13, 2017.² At the time of his announcement, Fagg said that in addition to starting his own law practice, he would "consider politics, as [he was] very concerned about the direction our country is going."³ On June 14, 2017, Fagg established the "Russ Fagg Senate Exploratory Committee," describing it as an "exploratory committee for Russ Fagg, who is considering running for the US Senate."⁴ According to its IRS Form 8871, Russ Fagg is the sole officer or director of the Senate Exploratory Committee.⁵

Since announcing his resignation from the bench, Fagg has actively run a shadow campaign for the United States Senate. The Russ Fagg Exploratory Committee launched a slick campaign website that features multiple high-resolution photographs of the candidate,⁶ extensive biographical information,⁷ descriptions of Mr. Fagg's policy priorities,⁸ a tab for prospective volunteers to sign up,⁹ and a donate button.¹⁰ The website has no purpose other than to communicate to the public about Mr. Fagg's background and qualifications for office. The "Donate" page solicits funds from prospective donors, including federally-qualified multicandidate PACs.¹¹

¹ Montana Judicial Branch, *13th Judicial District*, <http://courts.mt.gov/locator/dist13> (Exh. 1).

² Tom Lutey, *District Judge Russell Fagg resigning to start his own law practice*, *Billings Gazette*, June 6, 2017, http://billingsgazette.com/news/government-and-politics/district-judge-russell-fagg-resigning-to-start-his-own-law/article_5f9859e4-7f5d-5a77-a8ed-575965239fac.html (Exh. 2).

³ *Id.*

⁴ Internal Revenue Service, Form 8871, *Russ Fagg Senate Exploratory Committee*, June 22, 2017 (Exh. 3).

⁵ *Id.*

⁶ Russ Fagg U.S. Senate Exploratory Committee, <https://www.russfagg.com/> (Exh. 4-5).

⁷ Russ Fagg U.S. Senate Exploratory Committee, *About*, <https://www.russfagg.com/about/> (Exh. 6).

⁸ Russ Fagg U.S. Senate Exploratory Committee, *Issues*, <https://www.russfagg.com/issues/> (Exh. 7).

⁹ Russ Fagg U.S. Senate Exploratory Committee, *Volunteer*, <https://www.russfagg.com/volunteer/> (Exh. 8).

¹⁰ Russ Fagg U.S. Senate Exploratory Committee, *Donate*, <https://www.russfagg.com/donate/> (Exh. 9).

¹¹ *Id.*

The Exploratory Committee website features a range of resources that appear to have been financed and created by Montana's judiciary. For instance, an official portrait of Judge Fagg in his black robe is on the website's "Issues" tab, where Fagg explains his position on gun control and abortion, among other issues.¹² In addition, the "News" tab features a photograph of Judge Fagg, apparently in his official chambers and again wearing his black robe, posing before a small child who had apparently been a party to an adoption proceeding in his court.¹³

In addition to launching a website and donation platform, the Russ Fagg Exploratory Committee began distributing printed fliers in early August.¹⁴ Mr. Fagg announced on the website that as of August 10, 2017 "[i]f your county has a fair still to come, or other event," his "exploratory committee now has literature available to hand out."¹⁵ The website contains a phone number and email address which individuals can contact to obtain "flyers to hand out."¹⁶

Judge Fagg has made a number of comments that clearly and unmistakably indicate that he has decided to run for U.S. Senate. In a public report issued in late June, Fagg released a statement that, having seen "every kind of family suffering come through my courtroom . . . I want to do something more about it. I want to bring the prosperity to Montana that might benefit our families."¹⁷ In September, it was publicly reported that Fagg has been "traveling the state, raising money and touting prominent endorsements."¹⁸ As part of this effort, he made multiple

¹² Exh. 7.

¹³ Russ Fagg U.S. Senate Exploratory Committee, *Russ Performs an Adoption*, <https://www.russfagg.com/russ-performs-adoption/> (Exh. 10).

¹⁴ Russ Fagg U.S. Senate Exploratory Committee, *Fliers Available!*, <https://www.russfagg.com/fliers-available/> (Exh. 11).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Mike Dennison, *Billings Judge Fagg latest Republican to consider running for U.S. Senate*, MTN News, June 27, 2017, <http://cordillerrmontana.worldnow.com/story/35760612/billings-judge-fagg-latest-republican-to-consider-running-for-us-senate> (Exh. 12).

¹⁸ Mike Dennison, *Republican Fagg insists he's still 'exploring' U.S. Senate candidacy*, KTVH.com, Sept. 12, 2017, <http://www.ktvh.com/2017/09/republican-fagg-insists-hes-still-exploring-u-s-senate-candidacy> (Exh. 13).

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statements at an appearance before the Billings Petroleum Club in late August that indicate his future campaign plans. He said he has "an excellent shot of getting through the (Republican) primary and that is has "best chance of winning that general election in November 2018."¹⁹ He said at the same event that "I certainly would appreciate your support."²⁰ Fagg indicated to a reporter that, given that he has "seen so many circumstances and the issues that face Montana," is "center-right," and hails from Billings, he "would have the best shot of all the candidates to run against Sen. Tester."²¹ Fagg has also publicly touted his endorsements, indicating that the support he has received from five former officials "really makes the decision a lot easier."²² In a September 26, 2017, radio interview, Fagg indicated that he has decided to run for federal office. He stated that, "I'm probably not ready for it. But, ready or not, I'm thinking that's the direction I'll end up going."²³

Fagg has also publicly distributed communications that expressly advocate against candidates running for the Senate race in Montana. In his September 26, 2017, radio interview, Fagg delivered the following campaign attack against Senator Tester:

You know, my preference is, we need to look at what's best for Montanans and job creation. Senator Tester is a nice man but he's very liberal. People don't know that out in Montana and it's, I understand that. It's my opportunity to say, he's really gone to the left, really following the Democratic line. Here's some good examples. He voted against Judge Gorsuch, an imminently qualified person for the United States Supreme Court. Judge Gorsuch is going to benefit the United States for the next 30 to 35 years. He's a Westerner, Senator Tester voted against him. Senator Tester was the deciding vote for Obamacarc, again, not in line with what is best for Montana.

Believe it or not, Senator Tester voted for gun control in the Manchin-Toomey gun control act, absolutely not in line with Montana values. At the end of the day, Senator Tester is a nice man, but he was the chairman of the Democratic

¹⁹ *Id.*

²⁰ Transcript, Remarks at Billings Petroleum Club (Exh. 18).

²¹ Exh. 13.

²² *Id.*

²³ Transcript, Radio Interview, Sept. 26, 2017 (Exh. 17).

B. LEGAL ARGUMENT

Russ Fagg has clearly exceeded the threshold for candidacy, and is operating a shadow campaign that deprives the public of information about his campaign contributions and expenditures. Federal campaign finance law requires candidates to register a principal campaign committee within fifteen days of becoming a candidate and to disclose contributions received and expenditures made prior to becoming a candidate on their first campaign finance report.²⁹ In general, a person becomes a candidate when he or she has received more than \$5,000 in contributions or made more than \$5,000 in expenditures, or authorized another person to do the same.³⁰ Exempt from the definitions of "contribution" and "expenditure" are "testing-the-waters" activities that a person engages in to determine whether to become a candidate, such as polling, telephone calls, and travel.³¹ The exemption allows a person to raise or spend more than \$5,000 on such activities without becoming a candidate.

The testing-the-waters exemption does not apply "to individuals who have decided to become candidates."³² Nor does it "apply to funds received for activities indicating that an individual has decided to become a candidate for a particular office or for activities relevant to conducting a campaign."³³ The Commission's regulations contain five non-exhaustive examples of conduct that indicate that a person has decided to become a candidate and can no longer benefit from the testing-the-waters exemption:

²⁹ 11 C.F.R. §§ 101.1(a), 101.3.

³⁰ *Id.* § 100.3(a).

³¹ *Id.* §§ 100.72(a), 100.131(a).

³² FEC Adv. Op. 2015-09 (Senate Majority PAC and House Majority PAC); 11 C.F.R. §§ 100.72(b), 100.131(b).

³³ 11 C.F.R. § 100.72(b).

- The individual uses general public political advertising to publicize his or her intention to campaign for Federal office.
- The individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate.
- The individual makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office.
- The individual conducts activities in close proximity to the election or over a protracted period of time.
- The individual has taken action to qualify for the ballot under State law.³⁴

The Commission has consistently indicated that this is a "narrow exception" that only applies to activities whose sole purpose is to determine whether a person should become a candidate.³⁵ The exception may "not to be used to amass campaign funds that would be spent after the individual decides to actively pursue a candidacy, rather it is available only to determine political support for a potential candidacy through such activities as polling."³⁶ Thus, all funds raised to test the waters "must be raised for the purpose of financing the exempt activity."³⁷

The exception also does not "allow any activities to promote a campaign."³⁸ As a result, a person may not test the waters once his or her "public activities . . . take on a partisan political quality which would indicate that a decision has been made to seek" nomination or election.³⁹

The Commission has expressed particular concern that the exception does not apply to

³⁴ *Id.*

³⁵ See, e.g., FEC Adv. Op. 1982-03 (Cranston) ("limited exceptions"); FEC Adv. Op. 1981-32 (Askew) ("limited exceptions" for activities "solely" for testing the waters); FEC Adv. Op. 1979-26 (Grassley) ("narrow exception" that is "solely for exploratory purposes"); see also 11 C.F.R. § 100.72(a) (funds received "solely" for testing the waters).

³⁶ FEC Adv. Op. 1979-26 (Grassley).

³⁷ FEC Adv. Op. 1981-32 (Askew).

³⁸ *Id.*

³⁹ *Id.*

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expenditures to prepare information for the general public, including biographical brochures,⁴⁰ and found that a person who plans and schedules “public activities designed to heighten his political appeal to the electorate” ceases to qualify for the exception.⁴¹ In a 2006 advisory opinion, the Commission concluded that an individual who launched a website that asked viewers to contact precinct chairs to support his nomination and attacked a general election opponent was a candidate.⁴² And, in 2015, the FEC stated that if an individual refers to himself as a candidate for a particular office, “it would generally reflect the individual’s decision to become a candidate.”⁴³ In sum, whether a person qualifies as a candidate is determined by evaluating the factual circumstances surrounding his or her activity; “mere assertions” of an “individual’s subjective intent” cannot override “the objective indication of candidacy.”⁴⁴

The factual record clearly indicates that Mr. Fagg has been a candidate since mid-August or earlier. By mid-August, Fagg had launched his Exploratory Committee website, thereby publicly disseminating biographical information, news related to his candidacy, and policy positions, and soliciting donations and volunteers to support his campaign. This is precisely the type of conduct that the Commission found to signify that a person had qualified as a candidate in Advisory Opinion 2006-22. In addition, by distributing biographical information to the public, Fagg has clearly engaged in conduct that has in the past made the Commission “particularly concerned.”⁴⁵ Last, by distributing fliers to the general public and asking people to get “it into the hands of the people,” Fagg has disseminated “public political advertising.”⁴⁶ It is

⁴⁰ *Id.*

⁴¹ FEC Adv. Op. 1982-03 (Cranston).

⁴² FEC Adv. Op. 2006-22 (Wallace); *see also* FEC Adv. Op. 2015-09 (Senate Majority PAC) (citing FEC Adv. Op. 1981-32 (Askew)).

⁴³ FEC Adv. Op. 2015-09 (Senate Majority PAC).

⁴⁴ *Id.*

⁴⁵ FEC Adv. Op. 1981-32 (Askew).

⁴⁶ 11 C.F.R. § 100.72(b)(1).

simply implausible that publicly distributing biographical information and advertising materials has the "sole purpose" of helping Russ Fagg determine whether to become a candidate.

Russ Fagg's recruitment of volunteers through the Exploratory Committee website is a particularly significant indicator that he has decided to run for office and is no longer spending funds solely to determine whether to become a candidate. The Commission has said that the exemption does not "allow any activities to promote a campaign."⁴⁷ It is undisputable that recruiting volunteers is one of the core activities of a campaign. And, volunteer recruitment is unlike polling, making phone calls, and traveling, the examples of testing-the-waters activities listed in the Commission's regulations, in that volunteer recruitment does not help a person determine whether to become a candidate. Though many requesters of advisory opinions have sought approval to engage in a lengthy list of testing-the-waters activities, the Commission has never indicated that a person may recruit volunteers without triggering candidacy.

Russ Fagg's extensive partisan speech in support of his candidacy for the Republican nomination for the U.S. Senate seat in Montana also clearly indicates that Fagg has decided to run for office. The exemption does not apply once an individual's "public activities . . . take on a partisan political quality" that indicates a decision has been made to run for a particular federal office.⁴⁸ By August 16, 2017, Fagg had posted express advocacy materials attacking Senator Tester on his website. The website states that, though in "2006, Jon Tester made a promise to Montana voters . . . in 2016, Tester broke his promise . . . he's one of the three amigos -- McCaskill, Schumer, and Tester -- liberals voting and vacationing together."⁴⁹ In addition, in the September 26, 2017, radio interview, Fagg engaged in a public and partisan attack of Senator

⁴⁷ FEC Adv. Op. 1981-32 (Askew).

⁴⁸ *Id.*

⁴⁹ Exh. 14.

Tester.⁵⁰ This public, partisan campaign speech is the type of "activities to promote a campaign," that the testing-the-waters exemption does not permit.⁵¹ As with Fagg's active recruitment of volunteers, publicly comparing his general election opponent to "liberals" and indicating that they "vacation together," cannot serve the "sole purpose" of helping Fagg determine whether to become a candidate, and can only be viewed as "conduct signifying that a private decision to become a candidate has been made."⁵²

Nor are these the only examples of Fagg's partisan, political activities related to the U.S. Senate campaign in Montana. In his remarks at the Billings Petroleum Club, Fagg said that Tester had voted "in the wrong direction" on many issues and that "he's definitely voting for the Democratic line . . . he says one thing and does something else . . . he's really got people bamboozled . . . he's not voting Montana values and I feel very strong that he should be replaced."⁵³ Clearly, Russ Fagg's "public activities" have taken on "a partisan political quality which would indicate that a decision has been made to seek" office.⁵⁴

Last, by essentially announcing that he is running for the U.S. Senate, Fagg cannot continue to qualify for the testing-the-waters exemption.⁵⁵ In particular, Fagg stated at a public event that he has "an excellent shot of getting through the (Republican) primary and that he has the "best chance of winning that general election in November 2018."⁵⁶ He recently indicated to a reporter that, given that he has "seen so many circumstances and the issues that face Montana," is "center-right," and hails from Billings, he "would have the best shot of all the candidates to

⁵⁰ See Exh. 17.

⁵¹ FEC Adv. Op. 1981-32 (Askew).

⁵² *Id.*

⁵³ Exh. 18.

⁵⁴ FEC Adv. Op. 1981-32 (Askew).

⁵⁵ 11 C.F.R. §100.72(a)(3).

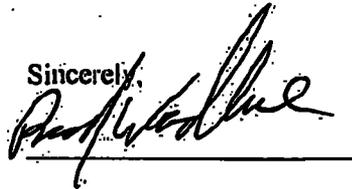
⁵⁶ Exh. 13.

run against Sen. Tester.”⁵⁷ Publicly touting his endorsements from five former elected officials, Fagg said that such support “really makes the decision a lot easier.”⁵⁸ And, at the conclusion of his public event at the Petroleum Club, Fagg said “I certainly would appreciate your support.”⁵⁹ It is unmistakable from these public comments that Fagg has decided to run for the Republican nomination for the U.S. Senate seat in Montana.

C. CONCLUSION

The Commission should investigate Judge Fagg’s failure to designate a principal campaign committee and disclose and report his testing-the-waters and candidate activities.

Sincerely,



SUBSCRIBED AND SWORN to before me this 5 day October, 2017.

District of Columbia: SS

Sworn to and subscribed before me on
the 5 day of Oct, 2017


Notary Public's Signature
My Commission Expires 11/30/2021



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District Court (Yellowstone County)

District Court Judge	Judicial Assistant	Law Clerk	Court Reporter
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Exhibit 1

Department 6
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Clerk of District Court

Yellowstone County
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217 N. 27th Street
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Court of Record
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Vacant
Municipal Judge
PO Box 1178
Billings, MT 59103
247-8690; 657-3075 fax

Juvenile Probation Officer

19044470020

Yellowstone: 256-2843

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BREAKING

District Judge Russell Fagg resigning to start his own law practice

By TOM LUTEY tlutey@billingsgazette.com Jun 6, 2017



RUSSELL FAGG

Yellowstone County District Judge Russell Fagg is stepping down this fall and will consider a future political career.

Fagg will resign Oct. 13. He will start his own law firm, but the former Republican state legislator is also considering a return to politics.

His replacement will be appointed by the governor in the next few months, but will have to face election in November 2018.

Fagg, 56, said he will return to private practice and focus on mediation, a key cog of U.S. justice focused on resolving cases before they go to trial.

"I may also consider politics, as I am very concerned about the direction our country is going. One thing at a time though. I want to finish this job well, and thus the four month lead time," Fagg said in a press release Tuesday. "I will handle the 1,100

MORE INFORMATION



Billings judge Russ Fagg forms 'exploratory committee' to run against Sen. Jon Tester

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cases in front of me and leave this office in good shape for the new judge.”

Fagg told The Gazette he is alarmed by the federal government's failure to cut spending. He worries the nation's future will suffer as a result.

“To me, the biggest issue is the budget deficit that we continually run,” Fagg said. “The way I look at it, 50 of the last 55 budgets have run deficits, accumulating to total debt of \$20 trillion.”

A district judge for 22 years and a former Republican legislator, Fagg said last December he was interested in replacing former U.S. Rep. Ryan Zinke as Montana's only representative.

Fagg describes himself as center-right politically and eventually chose not to run. The timing wasn't a good fit. Zinke was appointed secretary of Interior on March 1 and an 85-day special election cycle immediately followed, with Republican Greg Gianforte winning the seat May 25.

Montana has two federal seats on the 2018 ballot. U.S. Sen. Jon Tester, a Democrat, is seeking a third term. A few Republicans have expressed interest in running against Tester, but the presumed GOP frontrunner, Attorney General Tim Fox, announced last week that he won't challenge Tester.

Montana's U.S. House seat is the other federal office up in 2018. Gianforte has registered as a candidate, but is also considered vulnerable to a challenge because of his alleged election-eve assault on a reporter for The Guardian.

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Fagg had also been rumored to be a potential U.S. attorney for Montana. The position has been open since President Donald Trump took office. Fagg said he isn't interested in the job.

The judge said Tuesday this was a good time in his personal life for something new.

"This is a good time to consider a career change. My awesome wife Karen is supportive. And our amazing children, Harrison and Barclay, are off in college," Fagg said in a Tuesday press release.



Next Trading Seminar Starting Soon...

See how this former teacher made \$330,000 in the stock market last year trading part-time.

Learn The Secret

3,184

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Form **8871**
(Rev. July 2003)

Department of the Treasury
Internal Revenue Service

Political Organization Notice of Section 527 Status

OMB No. 1545-1603

Part I General Information

1 Name of organization

Russ Fagg Senate Exploratory Committee

Employer identification number

82-1862740

2 Mailing address (P.O. box or number, street, and room or suite number)

PO Box 176

City or town, state, and ZIP code

Billings, MT 59103 - 0176

3 Check applicable box: Initial notice Amended notice Final notice

4a Date established

08/14/2017

4b Date of material change

08/22/2017

5 E-mail address of organization

rfagg@icloud.com

6a Name of custodian of records

Russ Fagg

6b Custodian's address

PO Box 176

Billings, MT 59103 - 0176

7a Name of contact person

Russ Fagg

7b Contact person's address

PO Box 176

Billings, MT 59103 - 0176

8 Business address of organization (if different from mailing address shown above). Number, street, and room or suite number

PO Box 176

City or town, state, and ZIP code

Billings, MT 59103 - 0176

9a Election authority

MT

9b Election authority identification number

82-1862740

Part II Notification of Claim of Exemption From Filing Certain Forms (see instructions)

10a Is this organization claiming exemption from filing Form 8872, Political Organization Report of Contributions and Expenditures, as a qualified state or local political organization? Yes No

10b If 'Yes,' list the state where the organization files reports:

11 Is this organization claiming exemption from filing Form 990 (or 990-EZ), Return of Organization Exempt from Income Tax, as a caucus or associations of state or local officials? Yes No

Exhibit 3

Part III Purpose

12 Describe the purpose of the organization

The committee is a "testing the waters" exploratory committee for Russ Fagg, who is considering running for the US Senate.

1004414201

Part IV List of All Related Entities (see instructions)

13 Check if the organization has no related entities

14a Name of related entity	14b Relationship	14c Address
----------------------------	------------------	-------------

Part V List of All Officers, Directors, and Highly Compensated Employees (see instructions)

15a Name	15b Title	15c Address
----------	-----------	-------------

Russ Fagg	President	PO Box 178 Billings, MT 59103 - 0178
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Under penalties of perjury, I declare that the organization named in Part I is to be treated as a tax-exempt organization described in section 527 of the Internal Revenue Code, and that I have examined this notice, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that I am the official authorized to sign this report, and I am signing by entering my name below.

Russ Fagg

06/22/2017

Sign Here

▶ _____ ▶
Name of authorized official Date



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SHOULD RUSS FAGG RUN FOR SENATE?

Your name Email

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A fourth-generation Montanan. A high school football captain. A prosecutor. A judge. A husband. A father.

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A Montana Life of Service

A fourth-generation Montanan, Russ Fagg went to school at Rimrock Elementary, Lincoln Junior High, and Billings Senior High School, where he had great teachers and coaches. After being voted co-captain of the football team, Russ graduated and went to Whisman College, then to law school at the University of Montana.

Russ clerked for the Supreme Court, then began practicing law. He ran for the Montana legislature and served two terms. There he met his wife, Karen. The two have been super blessed with twins, Harrison and Barclay.

After working in private practice as an attorney, then serving as City Prosecutor and Deputy Yellowstone County Attorney, Russ decided to run for judge. He won, and served for 20 years.

Now, Russ is stepping down from the bench. Will his next step be a run for Senate? Speak out!



SHOULD RUSS FAGG RUN FOR SENATE?

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<http://www.russfagg.com/resume>

Exhibit 8

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DONATE TODAY!

Financial support is a crucial metric in Russ's decision making process about running for U.S. Senate. Your contribution can make the difference between running and not running. Every dollar raised will go toward paying for the travel, postage, consulting and polling necessary to determine whether there's enough support for Russ to run for U.S. Senate.

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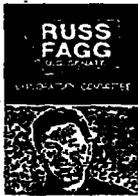
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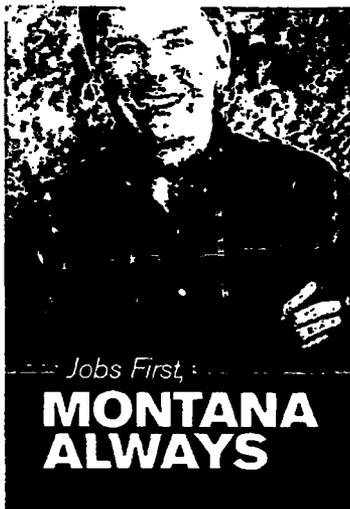
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email russ@russfagg.com, or call (406) 465-1578 and we will get the material into your hands.

Thank you for the work you do to advance conservative ideas in your community. As I travel the state exploring whether or not a run for the Senate is a good idea, I hope we have a chance to meet and talk about it.

Thank you and God Bless,

Russ

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RUSS

Exhibit 11

19044470118

Billings Judge Fagg latest Republican to consider running for U.S. Senate

Posted: Jun 27, 2017 1:39 PM EST
Updated: Jun 27, 2017 1:56 PM EST

By Mike Dennison - MTN News

HELENA - State District Judge Russell Fagg of Billings Tuesday became the latest Republican to announce that he's running or considering running for the GOP nomination to challenge Democratic U.S. Sen. Jon Tester next year.



State District Judge Russell Fagg of Billings

Fagg said he's forming an exploratory committee for the 2018 Senate contest and has a website that asks visitors whether he should enter the race.

"I've seen every kind of family suffering come through my courtroom in my 20 years as a judge," he said in a statement. "Now I want to do something more about it. I want to help bring the prosperity to Montana that might benefit our families."

Fagg announced earlier this month that he plans to step down from his judicial seat in October to consider a run for political office.

Tester, the state's senior U.S. senator, is running for a third consecutive term in 2018.

Republicans who've said they're running for the nomination to challenge Tester include state Sen. Al Olszewski of Kalispell, Big Sky businessman Troy Downing and business owner Ronald Murray of Belgrade.

Republican state Auditor Matt Rosendale also is thought to be considering the race.

Fagg was a Republican state legislator from Billings before becoming a state district judge 20 years ago. His father, Harrison Fagg, also served as a Republican state representative from Billings.

9 KXLH .COM

Republican Fagg insists he's still 'exploring' U.S. Senate candidacy

Posted: Sep 12, 2017 12:14 PM EST
Updated: Sep 12, 2017 12:14 PM EST

By Mike Dennison - MTN News

BILLINGS - Republican and state District Judge Russell Fagg is traveling the state, raising money and touting prominent endorsements - but insists he's still "exploring" whether to run for the U.S. Senate.



State District Judge Russell Fagg of Billings

"No, I'm not a candidate at this point, and I made that very clear," he told MTN News in an interview late last week in Billings. "I really just want to find out what sort of encouragement is out there. At this point, I've had tremendous encouragement."

Fagg, 57, has formed an exploratory committee that can raise money and finance his travels around the state, including public events and meetings with various groups. He says he'll decide whether to enter the race after stepping down from his judgeship on Oct. 13.

Four other Republicans have said they're in the race for the GOP nomination to challenge Democratic U.S. Sen. Jon Tester in 2018: State Auditor Matt Rosendale, state Sen. Al Olszewski of Kallispell, Big Sky businessman Troy Downing and Belgrade businessman Ron Murray.

Fagg, however, certainly sounds like he's made up his mind to run.

In a question-and-answer session with members of the Billings Petroleum Club late last month, Fagg said he has "an excellent shot of getting through the (Republican) primary" and that "I'm the best chance of winning that general election in November 2018" against Tester.

The Montana Democratic Party is tracking Fagg and recording his speeches - and, criticizing his "shadow campaign" as unethical.

"It's time for Fagg to just own up to what he's doing: Secretly raising money so he can run for the U.S. Senate," Chris Meagher, spokesman for the party, said this week.

Yet Fagg notes that the state Judicial Standards Commission reviewed his formation of an exploratory committee while he's still a sitting judge, and declared in July that he's not violating any ethical rules.

Fagg, who also served as a state legislator in the early 1990s, says he believes he'd be the best person to challenge Tester because of his experience as a judge - "I've seen so many circumstances and the issues that face Montana" - and because he's "center-right" and hails from Billings, which is important in statewide elections.

"For all of those reasons, I think I would have the best shot of all the candidates to run against Sen. Tester," he told MTN News.

Fagg also says he's been endorsed by three former Republican Montana governors - Marc Racicot, Stan Stephens and Judy Martz - and two former Republican congressmen: Denny Rehberg and Rick Hill.

"That really makes the decision a lot easier," he said. "But I'm not 100 percent there yet. I'm still talking to people."

In his public appearances, Fagg has said the nation needs to cut its budget deficit and that the federal government must peel back many of its regulations and leave more oversight to the states, on business, the environment, education and even health care.

"I'm a big believer in local control," he told the Petroleum Club. "We're a country of freedom and individual rights and the rule of law and property rights. But we're losing that."

Exhibit 13

9/13/2017, 7:21 PM

Republican Fagg insists he's still 'exploring' U.S. Senate candi - KXLH... <http://www.kxlh.com/story/36347165/republican-fagg-insists-hes-still-ex...>

Fagg also says it's "interesting" that the Democrats are already tracking and recording him:

"I think they're obviously concerned about a potential candidacy from Russ Fagg against Senator Tester, and of course, that thrills me," he told MTN News.

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Exhibit 13

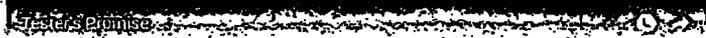
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REASONS RUSS IS CONSIDERING RUNNING

The National Republican Senatorial Committee produced this excellent video. It shows areas where Senator Tester's campaign promises haven't been kept. It illustrates why Russ is considering running for U.S. Senate.



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http://billingsgazette.com/news/government-and-politics/republicans-are-already-lining-up-to-challenge-tester/article_71bbba95-431e-5055-9fed-5d3f63ac7f31.html

Republicans are already lining up to challenge Tester

By TOM LUTEY tlutey@billingsgazette.com Jun 13, 2017



Voters arrive at the Montana Pavilion at MetraPark in Billings to vote Nov. 8, 2016. Recent successes by the GOP in Montana elections already have some Republicans looking forward to a possible challenge for Jon Tester's Senate seat.

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MORE INFORMATION



A number of Republicans are already weighing challenges to Democratic U.S. Sen. Jon Tester.

Exhibit 15



Montana Republicans elect Lamm chairwoman

- Tester's opposition to Gorsuch may be a re-election gamble
- Gianforte sworn in to U.S. House as fellow GOPs boo his call to curb lawmaker pay
- Billings judge Russ Fagg forms 'exploratory committee' to run against Sen. Jon Tester

Several would-be GOP candidates turned up in Billings over the weekend, suggesting there could be a crowded Republican primary to select a Tester challenger. Montana Republican Party delegates met in Billings last Friday and Saturday to select new party leadership.

The would-be candidates include Troy Downing, of Big Sky; Scott Roy McLean, of Missoula; and Kalispell legislator Albert Olszewski; plus a couple other prospects who are sniffing around.

Yellowstone County District Judge Russell Fagg has only said he'll consider a run for public office after retiring from the bench in October. Nonetheless, the former state Republican legislator took the opportunity to introduce himself to convention attendees last Friday.

Montana State Auditor Matt Rosendale kept a close eye on Senate prospects. Rosendale hasn't said whether he will run for U.S. Senate. Asked by The Gazette on May 31 if he would run for federal office, Rosendale said he would first focus on any insurance changes brought about by the repeal of the Affordable Care Act, and then decide.

Another Republican eyeing a run, Kurt Allen Cole of Troy, missed the Billings event, but told The Gazette on Friday he's exploring a candidacy.

Debra Lamm, the newly elected chairwoman of the Republican Party, said conservatives haven't been happy with several Tester votes, including his opposition to Supreme Court Justice Neil Gorsuch. Tester's support for the Iran Nuclear weapons deal also rubbed Republicans the wrong way and stirred

Exhibit 15

interest in political challengers.

Downing said the success of President Donald J. Trump and Congressman-elect Greg Gianforte, neither of whom had previously been elected, is a sign that voters are looking for an outsider.

"I don't care how smart you are, how good you are, how well-intentioned you are. I think after a certain period you become so institutionalized, you no longer think like a normal American," Downing said.

Not by coincidence, Downing said politicians stop thinking like the electorate after about 12 years. Tester's current tenure is 11 years. Downing, who lives in Big Sky, is the head of a California-based self-storage company. He been in the Big Sky area since 1998.

Cole, a former vermiculite miner who suffers from asbestosis after his years working for W.R. Grace in Libby, said there aren't enough common men in federal politics. The 64-year-old Montana native has done ranch work, milled lumber and mined coal. Friends encouraged him to turn his practical experience to the Senate.

Scott is a Hamilton attorney specializing in estate and business law. He was previously a law clerk for the Senate Judiciary Committee, where he worked closely with Utah Republican Sen. Orrin Hatch.

Olszewski was the first candidate to publicly show interest in challenging Tester. A state legislator, Olszewski is an orthopedic surgeon from Kalispell.

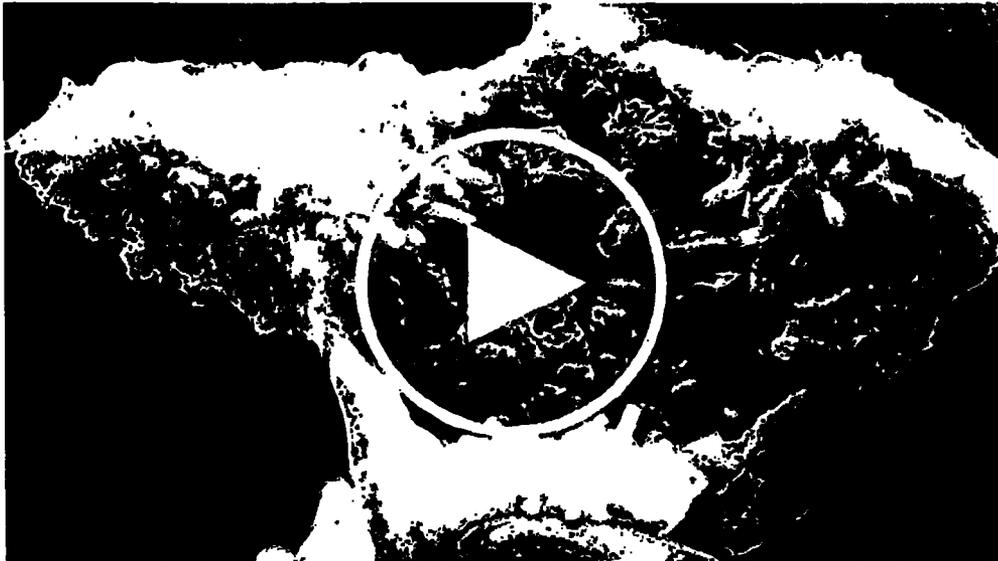
Exhibit 15

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Interest in challenging Tester picked up after Montana Attorney General Tim Fox announced June 5 that he would not run for U.S. Senate. Fox had been considered the most likely Republican pick.

Tom Lutey

Politics and agriculture reporter for The Billings Gazette.



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[00:00:48] JON ARNESON: Well, good morning everyone, and welcome back to Voices of Montana. Already looking at your Tuesday edition, 26th day of September. Autumn is here, things are cooling down. Fires are starting to dissipate a little bit. Don't have to worry about the smoke any more, so things are all good around these parts. Once again, good morning, thanks for joining us again. Busy show this morning, as per usual, it seems lately. So we're just gonna jump right into this thing, because I know you're gonna wanna learn about my guest today. He is in studio. His name is Russell Fagg, he's a district court judge for the 13th District Court in Montana.

[00:01:28] ARNESON: And he was first elected in 1995, and he will retire from the bench October 13th of this year. Now, Fagg is a 2018 Republican candidate. We'll get into that. He's about 90% sure, anyway, that he will be seeking election to the U.S. Senate from Montana. Now, prior to joining the district court, Fagg served two terms in the Montana State Legislature. Russell Fagg, welcome to Voices of Montana.

[00:01:57] FAGG: It's a pleasure to be here Jon. Thank you having me.

[00:01:59] ARNESON: One thing that I didn't mention, or maybe I did, but you did serve, yes, two terms in the Montana State Legislature. So, pol—, this isn't a first run of politics for you. You've been in the game before.

[00:02:11] FAGG: You know, I've always been interested in politics. I love this country and I think the, the way to move this country forward is through the democratic process. And my dad was in the Legislature. It probably whetted my appetite. His dad was interested in politics way back when in the 20s, 30s, and 40s in Montana. So we go way back. And I really do believe that this is the way to improve our country and help the citizens of Montana. So yeah, I've been interested in a long time.

[00:02:35] ARNESON: Has politics, you know how dirty politics can get, are you ready for it? I mean, you're a district court judge. You've got a history. People right now looking into that history, I'm sure. Are you ready for this? Because I can see, just from the last election or two, I can see where this could get pretty ugly.

[00:02:58] FAGG: You know Jon, I'm probably not ready for it. But, ready or not, I'm thinking that's the direction I'll end up going. I'm not a candidate yet, but like you said, I'm 90% there. I mean, I've handled 25,000 cases. And the pro of that is I have, really, 25,000 reasons why that puts me in a unique position to consider what's best for Montanans. I've seen poverty, I've seen dysfunction, I've seen chemical dependency, I've seen crime. I've seen people at their worst, I've seen people at their best. That gives me a unique perspective to figure out, hey, what can we do best for Montana, to help Montanans.

[00:03:31] FAGG: Of course, that means I have 25,000 cases they can look at. And I'm sure they will and research 'em. But I feel confident I followed the law, I've held people accountable, and I will stand on my record.

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[00:03:45] ARNESON: Now, you earned a B.A. from Whitman College, a master's degree in judicial studies from the University of Nevada, Reno and a J.D. from the University of Montana. Tell me about yourself. Where'd ya grow up, what are your hobbies, what do you like to do? And tell me about your family.

[00:03:56] FAGG: So I'm a fourth generation Montana, Montanan. My grandma was actually born down by the Yellowstone River here in Billings in 1898, so we go way back as a family. I ended going to Billings Senior High School. I played football and did track and enjoyed school very much. Went on to Whitman College, was on the debate team, and had a great career, or time at Whitman with some great friends. Went to University of Montana for law school, just enjoyed that for the most part very much. There were times when not so much. Became a lawyer here in Billings. Was in a small firm and did all the things that nobody else wanted to do, kind of a general practice.

[00:04:33] FAGG: Clerked for the Montana Supreme Court, was a prosecutor about, went to the Legislature, met my wife Karen. We've been married for 25 years, she's an awesome woman. Really feel blessed to have been married to her for 25 years. She actually owned an engineering company and is very successful in her own right, very active in the community. We have twins, Harrison and Barclay, who are sophomores in college. One of 'em's down in Texas at SMU. One of 'em's over in Tacoma at University of Puget Sound. Both of 'em had a very good freshman year. They're great kids, and they're gonna be great credits to Montana, Montana as well.

[00:05:05] FAGG: That kind of opened up the possibility to even think about this, cause I wanted to be the best dad that I could be. Our kids are in college now, so this is an opportunity to look at this. We had a family discussion and the family said, you know, if you want to go for this, you should go for it. In the meantime, I've been traveling the state, talking to people, and have been very, very encouraged with the support I've picked up, should I decide to run. I don't want to drop names, but I just am really grateful that I have the support of Governor Marc Racicot, Governor Judy Martz, Governor Stan Stephens, Congressman Rick Hill, Congressman Denny Rehberg. And as you know, you've followed politics for a long time. In a five or six way primary, that's pretty remarkable, that all these, really, people of substance and understanding and really have represented Montana so well are willing to step behind me, should I decide to run.

[00:05:54] FAGG: I mean, I'm super grateful for that. Especially when we have some really candidates out there in the primary. And yet they're willing to back me. So I'm very grateful for that.

[00:06:04] ARNESON: We talk a lot about the Constitution on this show. Talk about the Constitution, United States Constitution.

[00:06:11] FAGG: You know, it's probably the premier legal document that's ever been written. I mean, I think, I think honestly it was, it was inspired by God. I mean, He talked to those people that wrote that Constitution, it has endured for 240 years. And it's really the basis of our government. And it has worked so well for so many centuries. It's just a remarkable document. I really am a believer in the Constitution and what it, I think it has allowed America to prosper.

The ideals that are in that, that, you know, the ideals of freedom and limited government and, and government by the people, that has really been the cornerstone of our American dream for 240 years.

[00:07:00] ARNESON: What do you feel on gun ownership?

[00:07:03] FAGG: Very much in favor of the Second Amendment. There's no wiggle room there. The words shall not be infringed are very clear. I'm a big proponent of gun rights and the Second Amendment. And I just think that's what, again, what has made America great, is that ability to, to own arms and protect yourself and your family when called upon. And so I feel very strongly about the Second Amendment.

[00:07:28] ARNESON: Mr. Tester is very involved in veterans. He sits on some very high powered boards and. And do you think veterans, and we'll probably hear from our veterans here, (866)-627-5483. Do you think they're doing better, now that Mr. Tester is pretty powerful in Washington with veterans' rights. Do you think veterans are doing better?

[00:07:50] FAGG: No, I don't. Unfortunately. And that's kind an interesting point, cause that's really what Senator Tester's been touting, his 11 years in the Senate. But I've probably talked to 40 veterans in the last 3 months. And I ask them a question and say, are you better off now than you were 11 years ago when Senator Tester became a Senator? And about 80% say no, I'm not. And so, that's been Senator Tester's big issue. And to be honest, he's dropped the ball on that issue.

[00:8:20] ARNESON: Go a little further, will you please? What, what would you do different?

[00:08:24] FAGG: Well, to me, the veterans' care, the healthcare is probably the big issue. And we have some of the finest medical facilities in the world here in Montana. You know, the hospitals here in Billings are a good example. But across the state. So I like the idea of the Veterans Choice, but we need to do it right. We need to let veterans go to the Billings Clinic or to the St. Vincent's Hospital. And I think if the Veterans Administration would go to those institutions or Kalispell or Butte or wherever they might be located, and negotiate and say listen, we have a lot, we have thousands of veterans that we can send your direction, and we want a reduced rate in order for you to get the business.

[00:09:03] FAGG: I think that's the way to do it, is to use the facilities that we have in place, but negotiate a rate that's gonna be good for the veterans, but also good for the taxpayers.

[00:09:15] ARNESON: Sir, go, going through a terrible drought right now. This summer has been terrible. It's been hot, and we've had wildfires. Do you think as Montanans we should just get used to this? This is the way it's gonna be now. We're gonna have to breathe smoke, and we're gonna have to live with wildfires.

[00:09:22] FAGG: No, I don't think we should get used to it. You know, honestly, we need to start managing our forests better. I think the, the policy of, of, of the forest, the Forest Service over the last 100 years, really since the early 20th century, has been to put out fires as quickly as

possible. But that's caused a real problem. You know, there are, there is a, a benefit to letting nature take its way. The other policy that we, we've really fallen short on is this whole policy of not tim—, cutting our forests. You know, back in the 70s, we had over 30 lumber mills in Montana. Now we're down to about 5. And so I think we need to have responsible cutting of forests. You know, getting those resources to be utilized, getting those jobs to be utilized.

[00:10:18] FAGG: And we really dropped the ball on that. And so, not that responsible foresting is gonna take all of the problems out of the forest fires, but it will help. There's just too much underbrush and too much there to burn. And we need to address that in a responsible way. So, I think we can do a lot better in managing our forests, and I don't think we should get used to this forest fire business.

[00:10:39] ARNESON: Being a judge, what does that bring to the table?

[00:10:43] FAGG: Well, honestly, I think it brings a unique perspective. I mean, I've been a judge for 22 years, and I've seen the best of people and I've seen the worst of people. And I've seen how lack of job opportunities and drug addiction and poverty has really brought people down. I've also seen how education and getting through a chemical dependency issue in a life has really let people excel. And so I've seen at the, at the base level what's going on with Montanans. I've seen it every day of my life. I mean, I've handled almost 200 jury trials, 4,500 non-jury trials, over 12,000 hearings.

[00:11:22] FAGG: And so I've really seen, at a base level, what's going on with Montanans. And I think that gives me a perspective on how we can address those issues.

[00:11:30] ARNESON: Lots of Montanans like to hunt and hike. And we like to get outdoors. We just like to be outdoors. We like to ride our bikes, sometimes on the road, sometimes in the back country. We like to ride motorcycles, four wheelers. But it seems like every year we're losing more and more places to recreate and, I guess what I'm getting around to is private property. It's a sticky issue. What are your feelings on that, getting out and not closing up so much area? So many roads have been closed lately.

[00:12:00] FAGG: Well, to begin with, I'm a big user of what Montana has to offer. I'm a backpacker, I like to float rivers, I go mountain biking, I'm a big hiker. I hike really, literally, probably hundreds of miles every summer. I love getting out of Montana. That's why I love Montana and I really enjoy it. And so I'm a big believer in the, in the public lands. I, I'm a big believer in access to public lands. And, you know, I'm a big believer in private property rights. That's super important. And so, if a private landowner chooses to not allow access to the land, we have to respect that. That's what happens in Montana.

[00:12:34] FAGG: But we also have to try to work with them and say, hey there's some, we can have a win-win here. Why don't you open up your land for some access for some hiking, for some fishing, and maybe we can compensate you for that. And if we can do that and make it a win-win in a contractual situation where both parties are gonna benefit, I think we should be looking at trying to do that. Montana, I mean one of our greatest assets — well, our greatest asset

is our people, but our second greatest asset is that natural beauty that we have. And we need to utilize that.

[00:13:01] ARNESON: (866) 627-5483. We are gonna go to the phones after the next break. It's 19 minutes past the hour of nine o'clock. I'm with Russ Fagg. He's a district court judge for the 13th District Court in Montana. First elected in '95, he will retire from the bench this October. He's a 2018 Republican candidate — well, about 90% sure he is. And that would be a good question when we come back, why 90% sure he is seeking election, could be seeking election to the U.S. Senate from Montana. Now, prior to joining the district court, he served two terms in the Montana State Legislature.

[00:13:39] ARNESON: You can certainly always e-mail us at studio@northernbroadcasting.com. We're gonna go to your phones. Lot more to talk to, we certainly would love to hear from you, both Alan and John and also Olivia, on line 3, we're gonna go to you in just a few seconds. 90% sure. Is there any way we can convince you Russ, today, 100% sure? You want to just announce it right now?

[00:14:03] FAGG: There's no way you can convince me. I'm not going to announce it today, I still have a few more people to visit with.

[00:14:07] ARNESON: Alright. We'll be right back. Stay with us.

[AD BREAK]

[00:16:46] ARNESON: Welcome back. Voices of Montana. Jon Arneson with you. Russ Fagg is my guest, district court judge, 13th District Court of Montana. First elected in '95, he will retire later this year. Did you feel an earthquake? I just found out, 3.5 magnitude earthquake shook the Helena Valley and Lincoln areas early Monday morning. According to the U.S. Geological Survey, Monday morning's earthquake originated 10 miles south of Lincoln and at a depth of a little more than 6.6 miles. So, over there in extreme eastern, I should say western Montana.

[00:17:20] ARNESON: But let's go to East Helena and Alan, line one. Good morning Alan.

[00:17:25] CALLER ALAN: Hi, morning.

[00:17:26] ARNESON: Morning, thanks for calling. You're on the...

[00:17:29] CALLER ALAN: Thanks for having me.

[00:17:30] ARNESON: You bet. You're on the air.

[00:17:33] CALLER ALAN: Terrific. So, I guess my question is, with this Graham-Cassidy bill going on, if you were in the Senate, how, how would be votin' on that?

[00:17:43] FAGG: So, I like the idea of the block grant program. I like the idea of state control in our healthcare system. The pro and con of the Graham-Cassidy is really based on how much

money's gonna be allocated with it. And I understand that the current bill, there would be less money allocated [sic] for Montanans, so that's problematic. But I like the concept of the block grants and the state control, and so I guess I would really have to see how the final version comes out before I decide whether I would be in favor of it or not.

[00:18:11] ARNESON: Let's go over to Belt, Montana. And John, line two. Good morning, John.

[00:18:16] CALLER JOHN: Good morning, guys. Hey, question I'd like to ask is, will all your distinguished career of 26,000 cases, 4,500 prosecutions, just one litany question, and that would be, how many police officers or lawmen have you ever prosecuted, recommended for prosecution, for perjury on the stand. That's my question, and I'll take it off the air. Thank you, sir.

[00:18:41] ARNESON: Thank you John. Love hearing from Belt, Montana.

[00:18:44] FAGG: I have never recommended prosecution or prosecuted a police officer for perjury on the stand. So I huess that answers your question. I've never done it.

[00:18:53] ARNESON: What about the police. You know, we get, we've had all of this turmoil lately. It's NFL this week. Couple weeks ago it was police officers, one way or the other. Are they doing more than their, than their, are they being maybe too, too aggressive with certain people? What do you, what's your feeling on that?

[00:19:15] FAGG: I think the police and the sheriffs do an awesome job in Montana, generally. I think 99.9% of the time, they're out there trying to do the right thing, trying to help people. I mean, think about it. When we have our worst moments in life, we call the police or the sheriff and say would you come and help us. And they put themselves in harm's way for each one of us. There's of course always going to be times when they get frustrated, when they make a mistake, and when they do something wrong, and that certainly happens. They're human, and they make mistakes. But I'm gonna stand by the fact that the vast majority of the time, they do a heck of a job. I've been very impressed with the police and the sheriffs and how they handle themselves, generally.

[00:19:54] ARNESON: Let's go to Olivia in Billings. Line three. Good morning, Olivia.

[00:19:58] CALLER OLIVIA: Hi. How are ya?

[00:20:00] ARNESON: I'm great. Thanks for calling.

[00:20:02] CALLER OLIVIA: Good, thanks. I have a question for the judge. Are you raising money for your Senate campaign right now while you're still on the bench?

[00:20:10] FAGG: No, I'm not raising money for my Senate campaign. I have been raising money for my exploratory committee, and that's allowed under the FEC guidelines. Basically, in

order to travel the state and talk to people and do some things, I have raised some money for the exploratory committee. But, not for a campaign.

[00:20:25] ARNESON: Olivia?

[00:20:26] CALLER OLIVIA: But you're ret—, thank you.

[00:20:28] ARNESON: Okay, that's it? Okay. Let's go to Elena, Philipsburg. Line one. Good morning.

[00:20:33] CALLER ELENA: Hi, good morning. Is that me?

[00:20:35] ARNESON: Yes, ma'am.

[00:20:36] CALLER ELENA: Okay, this is Elena in Philipsburg.

[00:20:38] ARNESON: Elena. Thank you.

[00:20:39] CALLER ELENA: You're welcome. First of all, I want to wish you the best of luck, judge.

[00:20:43] FAGG: Thank you very much. I appreciate that very much.

[00:20:46] CALLER ELENA: I've seen some of your columns in the Missoulian, and I don't know the last question that was, or the question before that, about the police, because I turned the volume down. But you did a column for the Missoulian back, I believe, in, oh, let's see. Let me pull it up real quick. I'm sorry. Okay, yeah, it was back in May. And it was Ask the Judge, gangs of Montana. And, I was wondering if you could like an update on that, cause I agree with you. There are MS-13 gangs, there are a lot of gangs coming into Montana. And, especially Missoula. And the crime is skyrocketing.

[00:21:34] CALLER ELENA: There was a law suit, I believe, by an immigration lawyer in Helena. And it seems like, and he won, I guess, it was won out of court, he was against the profiling. As a result the Montana patrol were retrained as far as profiling, and my opinion is that because the police had to go through this, they figured we're not gonna bother anymore, and as a result the gangs are growing. I'd like to hear your opinion, if you agree with that, and I'll listen off the air.

[00:22:13] ARNESON: Thank you very much for the phone call.

[00:22:16] FAGG: Well, I think there's no question that gangs are growing throughout Montana. I'm not familiar with the case that you referenced in Helena, but again, I think we need to give the police the resources to be able to combat the problem. And, and not have them have with one hand tied behind their back. I mean, police are intuitive and they know people. And, I mean I'm certainly not a fan or a believer in profiling, but I also believe we need to let police follow up on their instincts, because that's what we train them to do.

[00:22:48] FAGG: And they've been in the trenches for 5, 10, 15, 20 years. And they have pretty good instincts about what's going on. And so, I think we do have a gang problem. I think it's growing. I think we need to address it, because it's bad for our citizenry, especially when we have young men and even some women, but primarily men, that are drawn into these situations. It's, it's just a terrible situation. They're gonna, you know, take that step, and it's the first step towards the Montana State Prison, and we have to nip it in the bud.

[00:23:16] ARNESON: What about the Montana State Prison? Is that run well? Is it overcrowded? Tell me about that? You have a unique perspective on some stuff we haven't talk a lot about here on the show.

[00:23:26] FAGG: Overall, I think the prison is run well. Yes, it's overcrowded. We have more people incarcerated per capita in the United States than any country in the world, and that bothers me very, very much. As much as anything, it's a fiscal issue. It costs about \$35,000 to keep somebody in prison. That's a lot of money. About 50% of the people that are in prison are there for drug-related offenses. I definitely believe in holding people accountable, but prisons should really be reserved for the violent and the repeat offenders. And, I think we need to go more towards significant probation, try to keep people in the community, try to keep them working.

[00:24:02] FAGG: And so I would like to see, primarily for fiscal reasons, and it's so expensive to keep people incarcerated, and it's hard on families, to move towards intensive supervision, try to keep people in the community. And I'm talking about nonviolent offenders. You know, if they, if they're caught marijuana. And, not so much in Billings, but some of the rural communities, sometimes they'd be sent to prison. There's better ways to handle some of those situations. But overall, I think our prison is well-run. But we can do better as a society.

[00:24:30] ARNESON: Should we legalize cannabis in Montana?

[00:24:33] FAGG: Absolutely not. I'm, I'm not in favor of that at all. I'm in favor of medical marijuana for those people that have a real prescription, that have real pain. And I'm okay with that. I think that's appropriate. But it was really a ruse when we legalized it way back when. People would go see a doctor for three minutes, and they'd walk out with a prescription for medical marijuana. That's not right. And typically, just a person that wants to smoke marijuana or utilize it, I'm not in favor of legalizing marijuana. I do believe it's a gateway drug, and it's going to lead to other things. And I've seen that time and time again. I think the states that have legalized it, like Colorado, I really believe will someday look back and say, that was a really bad decision. It definitely caused more harm than good in our state.

[00:25:15] ARNESON: Mr. Russ Fagg is my guest. District court judge for the 13th District Court in Montana. He did serve two terms in the Montana state legislature and he's about 90% that he's going to be a 2018 Republican candidate seeking election to the United States Senate for Montana.

[AD BREAK]

[00:00:59] ARNESON: I'm sincerely sorry.

[00:01:02] CALLER FRED: Anyway. Let's get back to the filibuster. In 1917, when they passed the 17th Amendment, 1913, when they passed the 17th Amendment, under the filibuster, Congress voted, the Senate voted, to eliminate the filibuster and go with the cloture. Now under cloture, it takes 60 votes to get anything passed. All the Senate has to do is revise that stupid ruling passed back in 1917 and go back to the filibuster and allow a simple majority when it comes to voting. This is what hamstringing the Senate, is that you have to have 60 votes. And it's all a lie, we've been lied to for so many years it's totally ridiculous. And one more point on the Bill of Rights. Why is it that the Democrats use the Bill of Rights to their advantage all the time? Every man in this country who served in the military, every elected official, every cop, took an oath to the Constitution.

[00:02:21] CALLER FRED: When I've seen these clowns on a football kneeling down and telling me I'm a fool because I took an oath to that Constitution, I'm sorry, they're the fools.

[00:02:26] ARNESON: Fred, thank you so much for your call and good luck to you. Judge?

[00:02:30] FAGG: Yes I spent two terms in the Montana legislature, we only needed a majority to pass something and it was hard enough to get 51 votes in the House and 26 in the Senate and have the Governor sign it. And so I know for the first 140 years of our country we did not have the filibuster and that seemed to work fine. Like you said, for the past 100 years we've had the filibuster. My inclination is also to do away with the filibuster. I don't understand why we ever got there. I understand it helps get a bipartisan result, but at the end of the day we're a republican democracy, you get 50 percent plus one you get to go forward with your proposal, and if you don't, you don't. So I think I would be inclined to do away with the filibuster and just have a majority vote.

[00:03:15] FAGG: It still is difficult to get things through the Congress, through the Senate, and on to the President's desk and signed by the President. So I think I would probably be inclined to do away with the filibuster, that's probably the direction I would go.

[00:03:25] ARNESON: Also asked about the Constitution and people taking an oath too. As a judicial district court judge, did you have to take an oath?

[00:03:33] FAGG: Yes I did, to support and defend the Constitution, and I love that oath, I think it's absolutely appropriate and I obviously believe that we should continue to give the oath and continue to follow that oath. I think it is the bedrock of our republican democracy.

[00:03:47] ARNESON: We did get a couple of emails, I want to go to the first one. Please ask your guest what, if anything, can be done to stop all the lawsuits brought against the Forest Service, BLM, mines, etc. by radical environmental groups and others, like outside money, which shut down job-producing industries, forest management efforts, public use of public lands and more? Sir?

1-800-447-0111

[00:04:11] FAGG: Well, at the end of the day, the Senate and the Congress can very much address that. We have all kinds of environmental protection acts which were mostly passed in the 70s, and it's certainly I believe in protecting our environment, that's one of the greatest assets that Montana has. My slogan is 'Jobs First Montana Always,' and I'm going to run every policy through a sieve of a, does this add to jobs or does it subtract from jobs and b, is it good for Montanans or is it bad for Montanans.

[00:04:37] FAGG: And I think we can address some of these environmental regulations and I think we can look at are they more harm than benefit and I think in many cases they have caused more harm than benefit. You know, we have the benefit now of the policies thirty, forty years later and I think we can readjust some of those policies to more of a middle ground where yes, we're going to protect the environment but we're also going to promote job growth. At the end of the day, we want our young people to stay in this state, we want them to prosper in this state, and the only way they can do that is if they have a good paying job and we need to move more in that direction.

[00:05:12] ARNESON: Let's go Bozeman and Karen, line 3, Karen, thanks for holding and welcome to Voice of Montana.

[00:05:17] CALLER KAREN: I would like to say to the judge on this point that you don't believe in profiling because I think that's how we've gotten ourselves into this mess. My question is I would like a very explicit on what you would do with illegal aliens. I understand that we just had a family that landed in Missoula and now they don't know where they are. And I will hang up and listen to your answer.

[00:05:45] ARNESON: Very good, let's talk about illegal aliens, Missoula taking a lot of illegal aliens. Tell me your feeling on that.

[00:05:53] FAGG: Well, we're a country of the rule of law, and if they're illegal by the very definition, they haven't followed the process. And that's wrong. I mean, we have lots of Americans that have come to this country and gone through the process and become legal, either receiving a green card or becoming residents. And that's a process.

[00:06:14] FAGG: So, every year we have about 800,000 people go through that process and become citizens or legal residents. And we have about 800,000 to 900,000 who come in illegally. We are rule of law, and we need to follow the law. And so, I know there are individual cases but if they are here illegally, I think we need to look at that and say listen, you can't stay here unless you want to go through the process, if you want to learn the language, if you want to pay taxes, and become a citizen. And so, just because they got here illegally doesn't mean they get to stay here. I'm particularly concerned about sanctuary cities. It just blows my mind that we have cities in this country that have refused to follow the law when it comes to immigration policies.

[00:07:01] FAGG: Signed by the President, passed by Congress. I'm totally against sanctuary cities, and I think we need to make sure that we have a process that's followed, I mean that's what America is all about, we're a land of the rule of law and we need to follow the rule of law.

[00:07:15] ARNESON: Judge, would you ever, and could you ever see another judge put Sharia law in their thinking when they're trying a case?

[00:07:25] FAGG: I certainly hope not. I mean, we are founded on the Constitution and the Constitution and Sharia law are not compatible with one another. I would be totally disgusted if another judge thought we should follow Sharia law. If somebody wants to follow Sharia law, that's fine, then they should go a country that has Sharia law. We are the United States of America and that foundation of our Constitution is not compatible with Sharia law so I don't think we should entertain that one moment.

[00:07:58] ARNESON: There's been a lot of talk about judges, let's say the 13th Circuit. Are judges that are putting their thought process into maybe a constitutional right or a problem or whatever, the Constitution comes up and they say, well this says this, but in my opinion, it would be better to do it this way, would you ever do that?

[00:08:18] FAGG: No I wouldn't. I absolutely believe judges should follow the law. And I think I can say that because I was in the legislature and the legislature is the place where you can make the law, where you can be part of the policy. Obviously, part of Congress and the Senate you can do the same thing, but as a judge you're elected and you swore to the Constitution to follow the law and I feel very strongly that judges should follow the law and not make the law.

[00:08:42] ARNESON: Senator Tester prefers preservation over production, timber, minerals, petroleum, grazing, I feel quite confident in saying that. What about you, do you have a preference?

[00:08:54] FAGG: You know, my preference is, we need to look at what's best for Montanans and job creation. Senator Tester is a nice man but he's very liberal. People don't know that out in Montana and it's, I understand that. It's my opportunity to say, he's really gone to the left, really following the Democratic line. Here's some good examples. He voted against Judge Gorsuch, an imminently qualified person for the United States Supreme Court. Judge Gorsuch is going to benefit the United States for the next 30 to 35 years. He's a Westerner, Senator Tester voted against him. Senator Tester was the deciding vote for Obamacare, again, not in line with what is best for Montana.

[00:09:33] FAGG: Believe it or not, Senator Tester voted for gun control in the Manchin-Toomey gun control act, absolutely not in line with Montana values. At the end of the day, Senator Tester is a nice man, but he was the chairman of the Democratic Senatorial Committee, and because of that, he was forced to go to the left and go in lockstep with the Democratic left.

[00:09:54] FAGG: You know, when Senator Tester was elected, he set up these ethical principles that he would not accept any money for trips or meals from any outside group or person. And yet, Senator Tester and his wife went on an all expense paid trip to Cancun this last winter with Senator Schumer and his wife, and Senator McCaskill [mispronounced] and her husband, paid for by Senator McCaskill.

[00:10:18] FAGG: It just gives a really good example that Senator Tester's really gone Washington. He went in as a so-called reformer, but he's no longer a reformer. He's part of the system, he's part of the swamp that needs to be drained. I'm really disappointed in Senator Tester and where he's gone and at the end of the day he doesn't represent mainstream Montana, if he ever did, he certainly doesn't now. The businesspeople, the farmers, the ranchers, that are out there trying to make a living, he's not helping them, he's hurting them with the policies he supports and espouses.

[00:10:53] ARNESON: Are you pro-coal?

[00:10:55] FAGG: I'm very much pro-coal. I think it's part of the solution to move forward. It's a great resource that we have in Montana and I'm very disappointed that the Democratic party, President, not president, Secretary Clinton, and including Senator Tester, are against coal.

[00:11:09] ARNESON: Let's go to Willie in Butte, Montana, line 1, Willie, thanks for holding, appreciate it.

[00:11:16] CALLER WILLIE: Yeah, I actually have a question that's similar in the previous caller's, you know we got to get this wall built, I've been reading about, some are saying that Republicans are going to have to cut a deal with the Democrat up there on DACA in order to get the wall built, and I was wondering, you know I ask every candidate I meet this question, would you compromise on that?

[00:11:45] FAGG: Well, it depends on what the compromise is. I mean I'm open to working with the other side, I think that's how part of our process worked. When I was in the Montana Legislature, I definitely was open to working with the Democrats, especially those that were reasonable Democrats that wanted to talk about solutions and so, that is how we move the ball forward. I don't think we should compromise principles, or our integrity, but we need to think about compromise. Now, I don't know what you're talking about exactly, but I believe in secure borders, I believe that we only let people in that have been vetted and they go through the process, I think that's incredibly important, that's how the United States works. And if a person's willing to go through that process, welcome them with open arms. I mean, that's what made this country great.

[00:12:26] FAGG: Most of my ancestors are immigrants, most of our ancestors are immigrants, but they also went through the process to become citizens of this country, they pay taxes, they get involved, they do good things for the community. And so, I'm a big believer in secure borders and the wall is certainly part of that, we don't want people to just be able to stroll into our country. And going through the process to become citizens.

[00:12:48] ARNESON: You believe in the wall, it should be built?

[00:12:52] FAGG: Well, we have a wall now, it needs to be improved, and there's lots of ways to do that I mean, I think technology can be used, I mean drones above the wall to be watching what's going on, but in principle, yes, I believe in the wall, I believe in secure borders, and people only come through when they're authorized to come through into our country.

[00:13:10] ARNESON: Would you back President Trump without a doubt?

[00:13:13] FAGG: Yes, if I get back there I would certainly back President Trump. He's our President. I think he's refreshing, I like his ideas of trying to make America great again. I believe in American exceptionalism like he does. Americans are exceptional people. We have shown throughout our history, you know, World War I, World War II, stepping in and really saving the world from totalitarian regimes, and then going back and rebuilding Japan, rebuilding Germany, which shows our generosity. We have promoted democracy and freedom across the world for most of our history, I really support that. We are an amazing country. In fact, I'm going to go so far as to say, and it's not hyperbole, we're the greatest country that has ever existed.

[00:13:54] FAGG: Having said that, I'm afraid we are going in the wrong direction and we are going to lose that for our kids and our grandkids if we're not careful. One of the biggest issues I'm concerned about is the budget and the budget deficit that we have. We're now 20 trillion dollars in debt, which is about 165 thousand dollars per tax payer. Interest alone on the national debt is about 14 percent of our budget.

[00:14:23] FAGG: I'm afraid as a country, we're going to implode from within if we don't get our arms around our spending habits. And it's not a taxing problem, it's a spending problem, we raised about 3.2 trillion dollars last year, isn't 3.2 trillion dollars enough? And maybe this is too crude but people ask me well how would you solve that? Well, the Simpson-Bowles Act, that was a Republican and Democrat who came together, it was a bipartisan approach. I like that. If we can't get any work done on that then I say let's just cap spending at 2017 levels. We won't have any cuts but we just won't increase any spending across the board until we come to a balanced budget.

[00:15:01] FAGG: I'm afraid, the debt that we're passing onto our kids and our grandkids is just fundamentally unfair and as a consequence, they're not going to have the same opportunities that we have had in our generation. You know, my generation is going to be okay. But it's the generations that follow that aren't going to be and as a country we need to have a discussion about that and get that handled.

[00:15:23] ARNESON: 54 minutes past the hour of 9 o'clock and—

[AD BREAK]

[00:16:19] ARNESON: My guest is district court judge, Russell Fagg, possible candidate for US Senate, 90 percent sure. Um, first elected back in '95. Alright, let's go to David in Big Fork Montana. Line two. David...I'm sorry, John, in Kalispell, line one. John, you're on the air.

[00:16:40] CALLER JOHN: Yeah, my question was about the H-1b work visa program and why do we need to have a program like that when college educated Americans are out of work?

[00:16:51] ARNESON: Thank you very much for the phone call, John.

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[00:16:55] FAGG: Well, that's a policy to bring in well educated people that are going to benefit the United States of America. I had a professor once tell me that America, one reason it's so great is because we have people that immigrate to the United States when they're 18 to 30 and so their non-productive years, 1 through 18 they've spent in a different country, and then their productive years from 18 until they retire are spent in America. And so I actually like that program because we're taking well educated people that can benefit our country and that will promote job growth and economic growth. There are certainly people in our country that don't have jobs, my heart goes out to them, but I think the unemployment rate currently is somewhere around four percent nationally and I think is even less than that in Montana. So I think most people that want to work are able to find a job today.

[00:17:41] FAGG: And I think getting well educated people from other countries that want to come here and promote our country and help our economy is actually beneficial in the long run to getting to that 3 percent growth that I talked about earlier, which was, really is critical to move America and Montana forward.

[00:17:59] ARNESON: Final words from you today. Got about 30 seconds.

[00:18:02] FAGG: Well I just want to say I love this country, I love the state of Montana. I'm passionate about Montana and the United States of America. I'm concerned about the direction we're going. I'm specifically concerned about the future of our country as it relates to our kids and our grandchildren. And I'm looking at this possibility as what can I do to try to help keep Montana and America great and that would really be our hope is to move the ball forward. I don't think Senator Tester has done that with his votes and with his policies, I think he's out of step with Montana, I think he's really following the Democratic line and we need to be talking about what's best for Montana and what's going to create jobs in Montana.

[00:18:39] ARNESON: After hearing the calls and doing the show are you about 91 percent sure you're running now, 92? You'll give me that?

[00:18:47] FAGG: I'll give you that Jon, I'm at least 91 percent now.

[00:18:49] ARNESON: Alright, there you go.

[00:00:01] RUSS FAGG: My name is Russ Fagg, I spent a couple terms in the Montana Legislature. Been a judge for about 22 and half years. Got twins that are sophomores in college. And it just seemed like the time to try to do something. I love this country. I just had this innate feeling that we're going in the wrong direction. To be completely honest, Senator Jon Tester is a very nice man. But he's definitely going in the wrong direction. He, he's definitely voting for the Democratic line. And I can, you know, give you all kinds of examples. But, we don't really have time for that, you all already know that.

[00:00:33] FAGG: Voted against Judge Gorsuch. To me, Judge Gorsuch was such a home run. Obamacare, he voted for gun control. I mean, he says one thing and he does something else. And he's really got people bamboozled. And Lisa just said, and it's true, I don't get into social issues very much, but he's, he's very much on the Democratic agenda on the abortion issue and the same-sex marriage issue and all those type of things. And, I just think we can do better. And so, it's a, it's a huge challenge. I am under no illusions how difficult it's going to be to unseat Senator Tester. I mean, the guy's already raised \$6 million. I can't imagine that. To me, it's just crazy.

[00:01:11] FAGG: And, yeah, I see somebody's here. And that's fine, everything I say is public record. That's fine. Senator Tester, like I said, is a nice man. But he's not voting Montana values. And I feel very strongly that he should be replaced. And so, I just wanted to say that I'm open to questions, but, I just feel like we can do a lot better. And, you know, this is gonna continue. Just part of the way, I'm not even a candidate yet, and yet I've already had all my e-mails and all my reference letters and all decisions and all my tax records asked for. Which is kind of crazy in a way, but, you know, I understand that's the way it works.

[00:01:51] FAGG: Just to let you know, I do have some familiarity with the oil and gas industry. And I actually worked for Jim Sandal way back when and did oil title opinions way back in the 80s, and so I've kind of got my, my hands dirty doing that. Actually, Karen and I own some royalty interest and so we're, you know, very small players in this business. But I understand what regulation is doing to business, and I just feel like, you know, Washington, DC should be a place of working together. We need to be pro-business, and, you know. You've heard all those things.

[00:02:27] FAGG: But it's true. We don't need to continue to pile on regulations and more taxes. There's a better way to do it. I, I really believe in the market system. I think that we should let people take risk, and you guys in the oil industry definitely know what risk is all about. But then also reap the rewards of that. And, to me, that's what America, that's what made America the country that we are. But I'm really concerned about where we're heading. To me, the biggest single issue is the budget deficit, and we're doing to our kids and our grandkids is just fundamentally unfair. And it's wrong. And, and to honest, Senator Tester's been a big part of that.

[00:03:05] FAGG: He just, you know, doesn't want to say no. And I get that. Alex de Tocqueville said a democracy in America, every democracy eventually fails, because people get elected by taking money out of the public treasury to continue to get elected. But, where does that leave the United States? We have been and are the greatest country that's ever been. And I really believe that, I sincerely believe that. We're a country of freedom and liberty and individual

rights and the rule of law and property rights. But we're losing that. And what happens when a country of the stature of the United States goes, goes broke for lack of a better term?

[00:03:42] FAGG: I mean, I'm really concerned that we're going to implode from within, just by this budget deficit. And it's not fair to our kids, it's not fair to our grandkids. We really need to start talking about that. And there's ways to address it. You know. The Simpson-Bowles Act, I thought was a really good start. Unfortunately, that didn't get anywhere. You know, we raised about \$3.4 trillion in this last year, and I have to ask: Isn't \$3.4 trillion enough? I certainly think it is. It's not, it's not a taxing problem, it's a spending problem. I think we can address that. So, I won't take any further, I think I've met with most of you, and I've tried to give you my envelopes. I've got a website called russfagg.com if you want to check it out. I would encourage you to do that.

[00:04:24] FAGG: I'm very encouraged, I think there's gonna be a half a dozen people in the primary, but I think I've got an excellent shot of getting through the primary. And I think I actually have the best shot should I decide to run to take on Senator Tester. Senator Tester's never gotten 50% of the vote. He's never won his home county, and he's voting the Democratic line. He's not voting mainstream Montana. And it's time for a change. So, I'm open to any questions you might have, I thank you for being here. Yes sir.

[00:04:53] AUDIENCE MEMBER 1: Question for you. I know Montanans are, you know, very much Montanans. So, what is your view on state rights versus federal rights?

[00:05:03] FAGG: I, I'm a big believer in local control. And, you know, that's in the education system, and, you know, this public lands debate, I really think we need to have more state input on that. I don't think it's feasible that we would sell or give land to the states, but I think there should be more state input on how to run the land. So, I'm a big believer, I think, the closer you are to the people, the better decisions are made. And so I think we should move decisions, to the degree that we can, away from Washington, DC, and in to the states and in to the local governments. That's really the direction that we need to go.

[00:05:37] FAGG: Now, there's some things that isn't feasible. Obviously, the defense of our country, that's not feasible. But as far as education, and even healthcare to a degree, and environmental regulations, and business regulations, I think we can do that better on a local level.

[00:05:52] AUDIENCE MEMBER 2: Can, can I expound upon that?

[00:05:53] FAGG: You bet.

[00:05:56] AUDIENCE MEMBER 2: With public lands, Montana's been very, very happy that Zinke, in the, in the first place was appointed to his position and elected to it. And a lot of folks that this, that this is a Montana man, that he's gonna give it back to the states to decide. What, what level, then, do you agree with the states actually taking care of this? Cause this is something that for every Montanan, whether it's the monumental parts, wherever it's at,

everybody's upset, one way or the other, whether the federal government's being too involved or not involved enough.

[00:06:44] FAGG: Well, to this degree, I think, you know, the BLM, the United States Forest Service, they control a lot of land, a lot of land in Montana, a lot of land across the West. And they need to go to the states and the local governments, the county commissions and say, you know, this is what's going on in Sweet Grass County, these are some, some ideas that we have. What do you guys think? I mean, certainly timber regulation and timber cutting is a, is a prime example. We, we look outside and we see all this smoke. And, and I think there's some, there's some balance that needs to come into this equation. We're letting our forests burn up. We're not getting any utility out of those forests. And I think that's where things like the Forest Service can come and say, hey, what can we do to try and promote a healthy forest?

[00:07:26] FAGG: What can we do to thin the forest? And by the way, increase, produce some jobs in that equation as well. There's certainly a way to do that. We're smart, we're resilient. We just need to try to work together to try to come up with some of those solutions. And I absolutely believe we can do that.

[00:07:45] AUDIENCE MEMBER 3: You know, when, when you look at, and, Judge, I think this is one of the things you're talking about. Cooperating agencies. County commissioners, local populations should have a say in a federal decision. Whether it's oil and gas leasing, or whether it's timber, half of that revenue comes back to the state of Montana. It doesn't go to New York, it doesn't go to San Francisco. But that's revenue and when you look at the, at the current state affairs of the state budget, where we are cutting services because the revenue's disappearing.

[00:08:29] AUDIENCE MEMBER 3: And here's an example I'll use, and I, I brought it up on federal leasing, oil and gas leases. And the BLM says, oh we're only behind a hundred permits in Montana. In the last 12 months, they haven't issued 6. But that's money that comes to the state of Montana, comes back to the counties where that revenue is generated to fund things like education, senior services. So, that's important. That is your revenue.

[00:09:04] FAGG: Absolutely.

[00:09:04] AUDIENCE MEMBER 3: Your money to run the government.

[00:09:07] FAGG: And if, you shouldn't even have to ask them, it sounds so silly to ask: Who's in a better position to make decisions? A bureaucrat in Washington, DC, or a county commissioner in whatever county you pick of the 56 counties that are in Montana? And to me, that's a no-brainer. So they should be working with us, what can we do best to manage this land? We can go that direction, and I think having President Trump and Interior Secretary Zinke can help us move in that direction.

[00:09:37] AUDIENCE MEMBER 2: What, what are you gonna do when there, there, there's a movement that every single thing that is fossil fuel is detrimental to the world, first and foremost, and detrimental to our, our livelihood here in Montana. And there's, there's people that are neighbors of us that may think differently than us, and God bless them. I, I appreciate that. But

the fact that any bit of extraction that we do on any type of natural resource use, if there's money to be made by any company that does that does any natural resources work, whether, whether it is logging. Whether it is oil and gas. Whether it is mining. Whether it's agriculture.

[00:10:31] AUDIENCE MEMBER 2: I, I, I, I come from Helmsville, Montana, which is right outside of Lincoln, Montana, and I saw huge swaths right north of Lincoln, Montana burn. And that, that went into litigation when even the government wanted to clear that out and NGOs came in and said that is bear and that is lynx territory, and we should not ever do that. And it went into court, and the judge sided with the environmental groups, saying that well, the state never proved that there was imminent fire danger.

[00:11:10] AUDIENCE MEMBER 2: Then two weeks later, it all burned. And it is still burning to this day. And that same judge took out that court motion. Where, where, where is like the give and take? I mean, if, if there's, if there's a push against us using our natural resources, as, as I do believe that we should responsibly, where's, where's the pushback, and how do you think that you could be a portion of that pushback, to let people know, the only way that we can take care of our world, is somebody's gotta make a dime off it. Somebody's gotta get, that logging company, that little company outside of Ovando, Montana has still gotta make some money to go out there and work for the state to clear that out.

[00:11:58] FAGG: There's a lot in what you just said, but to me, if you could boil it down, it comes down to a couple of things. First of all, America is great because we're a market-capitalistic society. And we've let everybody compete. And that's alternative fuels, fossil fuels. Throw everybody into the marketplace, and let the marketplace work. That's the most efficient way to run things. And it's really interesting to me, the alternative fuels are really taking off. And part of it's because they've had some government incentives to do that, but there's also some, just market capabilities in that as well. And to me, that's great.

[00:12:34] FAGG: But we shouldn't put somebody's hand tied behind their back, which is kind of what we're doing. So, I'm, I'm really a market guy. Let the market, if we let the market work, we'll have the most efficient use of our resources. And I think what you just talked about is a perfect example of that. Then the second thing is balance. You know, you know we're not gonna, we're not going to clear-cut all the forests in Montana, nor do we want that. We love Montana. We're all here because, I'm a backpacker. I've spent hundreds of nights in the wilderness area. I've been floating, I'm a mountain biker. I like to get out.

[00:13:07] FAGG: In fact, this last weekend, I did a hike and I did a mountain bike. I love to do those things. And so that's why we're here, and we need to preserve those things. But we also need good-paying jobs. And there's a balance in there where we can do both. And the forest, like I already talked about, is a great example. We're letting them burn as opposed to letting them be responsibly logged for our resource industry in Montana. I think I read in 1972, I think there 32 logging mills in Montana. and in 19, or excuse me, in 2015, there were 3 relatively large mills and a few mom and pop operations, but literally about 20% of what they were 30 years ago,

[00:13:51] FAGG: And that's just, we're going the wrong direction. So I think it's comes back into, the word balance is not a bad word. We need, I mean my slogan is jobs first, Montana always. And those two dovetail together, I think they really work well together.

[00:14:07] FAGG: So, you know, I think I've given most of you envelopes, and I appreciate you being here. And again, I appreciate Dave and Kevin and Allen for sending the invitation and I look forward to working with you. I think Montana has a great future ahead of it, but we need to work together in order to do that, and I think I'm the best chance of, of winning that general election in November of 2018. And I certainly would appreciate your support. And I'll hang around a little bit and answer any questions if you have 'em. So, thank you very much.
[APPLAUSE]

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